



**THE THIRD QUARTERLY REPORT FOR THE
YEAR 2007 COVERING THE PERIOD 1ST
JULY 2007 TO 30TH SEPTEMBER 2007**

**THE KENYA ANTI-CORRUPTION
COMMISSION**

PREAMBLE

The Kenya Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports.

Section 35 provides that:

1. Following an investigation, the Commission shall report to the Attorney General on the results of the investigation.
2. The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the third quarter of the year 2007 and is for the period commencing 1st July, 2007 to 30th September, 2007.

INVESTIGATIONS COVERING THE PERIOD 1ST JULY, 2007 TO 30TH SEPTEMBER, 2007

1. KACC 141/79/07: COURT FILE:NAIROBI ACC 8/07

Inquiry into an allegation that a Police Officer attached to Juja Police Station had corruptly solicited for a benefit of Kshs. 2,000/- in order to release the complainant's Motor Vehicle Registration No. KAP 471A which he had detained at Juja Police Station. Investigations established the solicitation and the suspect was arrested and charged with three counts of corruption under Section 39(3)(a) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 2nd July 2007 with recommendation that the case pending before Court be prosecuted to conclusion. The recommendation was accepted by the Attorney General on 9th August 2007.

2. KACC/AT/INQ/2I(C)/2006

Inquiry into allegations of misappropriation by the Githunguri Constituency Development Committee of Kshs. 2.4 Million allocated to the Kigumo Health Centre. The investigation did not establish any evidence of embezzlement of the Constituency Development Funds as alleged.

The file was forwarded to the Attorney General on 10th July 2007 with recommendation that the inquiry file be closed. The recommendation was accepted by the Attorney General on 9th of August 2007.

3. KACC/FI/INQ/27A/07

Inquiry into allegations of abuse of office by the Government Engineers in approving payments to a Construction Company for shoddy work done on Garissa Dadaab Road Spot Improvement Gravelling Project. The investigations did not establish any abuse of office by the Engineers but it was noted that there was some element of inadequate supervision of the contractor. This led to unsatisfactory work being undertaken.

The file was forwarded to the Attorney General on 10th July 2007 with recommendation that the inquiry file be closed. The file was returned by the Attorney General on 20th August 2007 with recommendation that further investigations be undertaken.

4. KACC/INQ/42(A)/2004

Inquiry into allegations that the former Kenyan Ambassador to Germany and the former Financial Attache' fraudulently obtained a sum of Kshs. 6,205,343.17 by falsely pretending that the money was due to the John F. Kennedy School at Berlin, Germany, as school fees for their children. There was evidence that the two officials indeed obtained the said amount fraudulently.

The file was forwarded to the Attorney General on 10th July 2007 with recommendation that both the former Ambassador and the Financial Attache' be charged with various counts of obtaining money by false pretences. Advise of the Attorney General is awaited.

5. KACC CR 122/227/2007: COURT FILE: MAKADARA ACC 28/2007

Inquiry into an allegation that a District Officer of Kikuyu Division had solicited for a benefit of Kshs. 2,000/- as an inducement to assist the complainant to be employed as an Assistant Chief of Karai Sub-location. The investigation established the solicitation and receipt of the bribe. The suspect was arrested and charged before the Makadara Anti – Corruption Court with four counts of corruption.

The file was forwarded to the Attorney General on 25th July 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 20th August 2007.

6. KACC/CR/141/923/2007: COURT FILE: MAKADARA ACC 17/2007

Inquiry into allegations that a businessman in Nairobi had corruptly offered a bribe to an investigator with the Kenya Anti-Corruption Commission as an inducement to prepare a favourable report in respect of an investigation on a parcel of land L.R No. 209/16441

whose allocation was the subject of investigation by the Commission. The investigation established that the offer to bribe the investigator had been made and indeed, on 15th March 2007, the suspect corruptly gave the investigator Kshs. 500,000/- as a part payment. He was subsequently arraigned in court and charged with the offences of offering and giving a bribe contrary to section 39(3)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 25th July 2007 with recommendation that the case pending in Court be prosecuted to conclusion.

7. KACC CR 141/1067/2006: COURT FILE: NAIROBI ACC 118/06

Inquiry into allegations that a police officer attached to Muthangari Police Station, Nairobi, corruptly solicited for a sum of Kshs. 3,000/= from the complainant as an inducement so as not to arrest her for an alleged offence of handling stolen property. The investigation established the solicitation and receipt of the bribe by the suspect. He was arrested and charged with three counts of the offence of corruption.

The file was forwarded to the Attorney General on 27th July 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 24th August 2007.

8. KACC CR 132/37/07: COURT FILE: MAKADARA ACC 15/07

Inquiry into allegations of corruption against two Public Health Technicians stationed at Wangige Health Centre. It was alleged that they had solicited for and received a benefit from the complainant as an inducement to issue him with a licence to operate his hotel located within Mwimuto Market. Investigations established that the two had solicited and received a benefit. They were arrested and charged before the Makadara Anti – Corruption Court with the offence of soliciting and receiving a benefit contrary to section 39(3)(a) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 30th July 2007 with recommendation that case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 7th September 2007.

9. KACC CR 030/10/07: COURT FILE: NAKURU ACC NO. 21/07

Inquiry into allegations that the DCIO Baringo, and two police officers from the said station, had jointly solicited for a benefit of Kshs. 80,000/- as an inducement to release the complainant's vehicle which had been detained by the said officers at Kabarnet Police Station on the purport that it was a stolen vehicle. Investigations established the solicitation. The suspects were arrested and charged with two corruption offences.

The file was forwarded to the Attorney General on 30th July 2007 with recommendation that the case pending in court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 29th August 2007.

10. KACC CR 132/37/2007

Inquiry into allegations that a routine inspector working for Kenya Power and Lighting Company Ltd. (KPLC) demanded from the proprietor of a Bakery within Kariobangi Light Industries, a sum of Kshs. 110,000/- as an inducement so as not to disconnect power supply to his said bakery on allegations that there were defects in the electric wiring to his premises. Investigations established the solicitation and receipt of Kshs. 30,000/- from the complainant. The suspect was arrested and was subsequently arraigned in court and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 3rd August 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 7th September 2007.

11. KACC/AT/INQ/20/2006

Inquiry into allegations that the former District Commissioner for Isiolo misused kshs. 600,000 drawn from the Isiolo North Constituency Development Fund Account to pay irregular allowances to members of the Peace and Conflict Resolution Committee in Merti Division. The investigation did not reveal any evidence of the alleged misuse of funds.

The file was forwarded to the Attorney General on 6th August 2007 with recommendation that the same be closed. The recommendation was accepted by the Attorney General on 10th September 2007.

12. KACC/FI/INQ/72A/05

Inquiry into allegations of fraud against the Mayor and the chief officers of Mavoko Municipal Council in concert with a private contractor in the project of rehabilitation of Kenya Meat Commission Road. Investigations done by the Commission revealed that Mavoko Municipal Council embarked on rehabilitation of the then dilapidated Kenya Meat Commission Road whose repair costs were estimated by the Municipal Engineer to Cost Kshs. 12,340,336/-. The Tender Committee of the said Council did award the tender at a price of Kshs. 12,417,138.80. The construction went on and a total amount of Kshs. 13,523,474.30 paid the Contractor representing a variation in the sum of Kshs. 1,106,335.50 over and above the original contract sum. Investigations carried out revealed that, the variation of works and contract price was never referred to the Tender Committee for approval as required under the Exchequer and Audit (Public Procurement) Regulations 2001 as amended in 2002.

The file was forwarded to the Attorney General on 16th August 2007 recommending the prosecution of the then Municipal Engineer of Mavoko Municipal Council, then Town Clerk, and the then Treasurer, with the offences of careless failure to comply with the law relating to procurement contrary to section 45(2)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. Advise of the Attorney General is awaited.

13. KACC CR 141/1018/2006: COURT FILE: NAIROBI ACC 113/07

Inquiry into allegations of corruption against two Askaris with the City Council of Nairobi. It was alleged that they had solicited for Kshs. 400,000 from the General Manager of Sher Safari Agencies Limited as an inducement not to charge the Company with the offences of allegedly operating their business without a licence and constructing partitions without the approval of the City Council of Nairobi. Investigations confirmed that the two had solicited for a benefit. The suspects were arrested and charged before the Nairobi Anti – Corruption Court.

The file was forwarded to the Attorney General on 21st August 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 7th September 2007.

14. KACC CR 132/33/07: COURT FILE: NAIROBI ACC 14/2007

Inquiry into allegations that an official of Nairobi City Water & Sewerage Company Ltd, was demanding a bribe as an inducement so as not to disconnect water supply to a building within Umoja Estate. Investigations revealed that the suspect solicited for and did receive a benefit. He was arrested and charged with various counts of soliciting and receiving a benefit.

The file was forwarded to the Attorney General on 28th August 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

15. KACC/ (MSA)/021/53/2007: COURT FILE: MOMBASA ACC 9/07

Inquiry into allegations that a prosecutor attached to the Kwale Senior Resident Magistrate's Court had demanded a sum of Kshs. 7,000/- as an inducement for him to make an application for warrants for the arrest of some two suspects who were at large in a case where the complainant herein was also a complainant. Investigations established the solicitation for Kshs. 7,000/-.The suspect was arrested and charged with the offences of soliciting

and receiving a bribe contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

The file was forwarded to the Attorney General on 28th August 2007 with a recommendation that the case pending before Court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 17th September 2007.

16. KACC/CR 032/7/2007: COURT FILE: KISUMU ACC 79/07

Inquiry into an allegation of corruption against three Traffic Police Officers based at Awendo Police Station Traffic Sub-Base. Investigations established that the said officers routinely demanded and received bribes from drivers of public service vehicles as an inducement so as not to charge them with traffic offences. They were arrested and charged with corruption.

The file was forwarded to the Attorney General on 30th August 2007 with the recommendation that the case pending before Court be prosecuted to its logical conclusion.

17. KACC CR 141/175/2007: COURT FILE: MAKADARA ACC 13/07

Inquiry into allegations that the Chief of Kabete Location had solicited for a bribe as an inducement to forbear from recommending to the Police the charging of the complainant's cousin with the alleged offence of defying a Chief's order and harbouring criminals. Investigations have established the solicitation and receipt of the bribe. The suspect was arrested and charged before the Makadara Anti-Corruption Court with the offence of corruption.

The file was forwarded to the Attorney General on 4th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

18. KACC/INQ/FI/90A/05

Inquiry into allegations of corruption and possession of unexplained wealth against a Senior Roads Inspector of the Ministry of Roads and Public Works based in Kisumu. Investigations established that certain offences involving submitting false information to the Public Service Commission were committed contrary to the Public Officer Ethics Act. However, Kenya Anti-Corruption Commission lacks powers to investigate offences under the said Act. It was thus recommended that the file should be submitted to Criminal Investigation Department for further evaluation.

The file was forwarded to the Attorney General on 5th September 2007 with recommendation that the same be closed. It was also recommended that the matter be referred to the Criminal Investigation Department for their further action and that Kenya Revenue Authority should look into the possibility of tax evasion by the said officer. Advise of the Attorney General is awaited.

19. KACC/FI/INQ.59C/05

Inquiry into allegations of corruption in the award of tender for supply of 50,000 packs of Amoxicillin 250 mgs valued at Kshs. 43,991,500 to Excelsior Mihaso Ltd by the Ministry of Health. The investigation revealed that there was a conspiracy between Chief Procurement Officer at the Ministry of Health, the Senior Principal Procurement Officer at the same Ministry, and the Director of the Excelsior Mihaso Ltd to manipulate the tender to favour the Company. The Ministerial Tender Committee also proceeded to award the tender, despite the fact that the Company did not present the lowest evaluated tender.

The file was forwarded to the Attorney General on 6th September 2007 with recommendation that the Members of the Ministerial Tender Committee be charged with the offence of awarding tender to a candidate other than the lowest evaluated bidder. It was also recommended that Excelsior Mihaso Ltd and its director, together with the two senior procurement officers at the Ministry of Health be charged with conspiracy to commit an offence. Advise of the Attorney General is awaited.

20. KACC CR 141/203/2007: COURT FILE: MAKADARA ACC 19/07

Inquiry into allegations that the Chief of Riruta Location had solicited for a bribe as an inducement to authorize the complainant to saw timber on land parcel number Dagorreti /Riruta/158. The investigation established that the Chief had indeed committed a corruption offence. He was arrested and charged with the offence of soliciting and receiving a bribe in Makadara Anti-Corruption Court.

The file was forwarded to the Attorney General on 6th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

21. KACC CR 342/102/2007: COURT FILE: MOMBASA ACC 2/07

Inquiry into an allegation that certain members of the Kisauni Constituency Development Committee had corruptly solicited for a benefit from a supplier in order to accept delivery of furniture which he had been contracted to supply. Investigations established that three members of the Committee solicited for sums ranging from Kshs. 80,000/- and 100,000/- from the supplier. They also received Kshs. 20,000/- from him. They were arrested and charged with several counts of solicitation and receiving of a benefit before the Mombasa Anti-Corruption Court.

The file was forwarded to the Attorney General on 10th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

22. KACC/INQ. 28/2006

Inquiry into allegations of financial irregularities at the Kenya National Commission on Human Rights highlighted in a report of the Controller and Auditor General for the financial year ending 30th June 2004. The alleged irregularities included alleged unsupported expenditure amounting to Kshs. 2,999,737.75, irregular appointment of M/S Ernst and Young to undertake an audit of the Commission's books of account, unsupported expenditure of kshs. 264,111 spent during the Human Rights Day and kshs. 114,253 incurred by experts

and stakeholders during the review of the KNCHR Strategic Plan, payment of relocation expenses amounting to Kshs. 1,336,263.25 to the Chairman and two other Commissioners and purchase of Honda CRV vehicles for Kshs. 28,762,500 for the Commissioners and Secretary and failing to award the tender to the lowest bidder.

The Commission instituted investigations on all the allegations and the same disclosed no evidence of criminal wrong doing on the part of the Chairman or Commissioners of the KNCHR. However, the sums of Kshs. 519,873.25 and Kshs. 277,960 paid to the Chairman as reimbursement of the expenses incurred while shuttling between New York and Nairobi and relocation allowances respectively was found to be irregular and should be recovered from him.

The Commission also recommended that allowances paid to two Commissioners amounting to Kshs. 200,505 each be recovered from them as it was irregularly paid.

The file was forwarded to the Attorney General on 25th September 2007 with recommendation that administrative action be undertaken as highlighted hereinabove. Advice of the Attorney General is awaited.

23. KACC/FI/INQ.70/2006

Inquiry into allegations that the M.P for Makadara Constituency abused his office as the Chairman of the Makadara Constituency Development Committee by interfering with the tendering and implementation of the CDF projects for construction of a secondary school and Jua Kali market stalls within the Constituency.

The investigation revealed that the M.P had withheld a cheque of Kshs. 2 million payable to the Contractor who had been awarded the contract to construct the market stalls. The evidence revealed that the M.P also attempted to coerce the said contractors to pay a sum of Kshs . 2.3 million to a certain company of his choice, for the supply of the building materials for the said construction. Since the contractors refused to accede to his demand, he withheld the cheque for the payment for the materials to build the stalls. He also wrote to the Contractors bankers and requested them to refund the payment made into the contractors account to the account held

by Makadara Constituency CDF, by alleging that the payment had been made erroneously. The evidence gathered however showed that this was a false representation to the bank by the M.P because the payment had been regularly made after the contractors were awarded the tender. The laid down procurement procedures were complied with in the award of the tender to the said Contractor.

After evaluation of all the evidence gathered, it was ascertained that the M.P abused the authority of his office by giving the misleading information to the bank and also withholding a cheque that had been regularly issued to the Contractor. He also engineered the cancellation of the contract to construct the market stalls awarded to the said contractors. These acts by the M.P were arbitrary.

The file was forwarded to the Attorney General on 25th September 2007 with recommendation that the said MP for Makadara be charged with two counts of abuse of office contrary to Section 101(1) of the Penal Code. Advise of the Attorney General is awaited.

24. KACC CR. 142/55/2007: COURT FILE: MAKADARA ACC 29/07

Inquiry into an allegation that a Police Constable based at Ndakaini Police Post in Gatanga, Thika had corruptly solicited for a benefit as an inducement so as not to charge the complainant with an alleged offence of abduction. Investigations established the solicitation and receipt of a benefit. The Constable was arrested and charged with four counts of corruption in Makadara Anti-Corruption Court.

The file was forwarded to the Attorney General on 26th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

25. KACC CR. 111/205/2007: COURT FILE: NAIROBI ACC 37/2007

Inquiry into an allegation that two Askaris (City Constables) working for the City Council of Nairobi had solicited for a benefit as an inducement to forbear charging the complainant with an alleged offence of tampering with a City Council sewer pipe in Imenti

House along Tom Mboya Street. The investigation established solicitation and receipt of a benefit. The suspects were arrested and charged in Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 26th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

26. KACC CR.011/57/07: NAKURU ACC 23/07

Inquiry into an allegation a Police Constable based at Rongai Police Station had corruptly solicited for a benefit as an inducement to forbear charging the complainant with an alleged "offence" of playing pool without a licence. The investigation established the solicitation. There was also evidence that the said Officer stole the micro cassette which the complainant was using to record their conversation. He was arrested and charged with corruption, and it has been further recommended that an additional charge of stealing be preferred against him.

The file was forwarded to the Attorney General on 6th September 2007 with recommendation that the case pending before Court be prosecuted to its logical conclusion.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE ATTORNEY GENERAL

Total No. of files forwarded to the Attorney General	26
No. of files recommended for prosecution	21
No. of files recommended for administrative or other action	1
No. of files recommended for closure	4
No. of files where recommendation to prosecute accepted	17
No. of files recommended for prosecution and the cases are already lodged in Court	17
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	2
No. of files where recommendation to prosecute not accepted	0
No. of files where A-G has recommended further investigations	1
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files forwarded in the previous quarters and received during this quarter	2
No. of files awaiting Attorney General's action	6

DATED AT NAIROBI THIS 8th DAY OF October, 2007



JUSTICE (RTD) A. G. RINGERA
DIRECTOR/CHIEF EXECUTIVE